Differences

HB 138

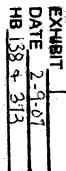
HB 373

Defines augmentation (for water use act)

Effective on passage and approval

- Defines the term municipality (for water use act) - "municipal use" term was defined in DNRC rule - DNRC removed this definition from rule
- Defines stock water(for water use act)
- Removes exemption for surface water domestic in closed basins
- **Exemptions to the basin** closure:
 - ground water IF accompanied by augmentation plan
 - response actions related to natural resource restoration required by other laws
 - surface water use by municipality or stock
 - store water during high spring flows (50 ac. Ft or more impoundment)
 - nonconsumptive hydropower use
- an applicant for a groundwater permit in a closed basin must submit a report.
- The report must include -
 - analysis of connection between ground/surface
 - quantify depletions to surface water from the proposed appropriation (assumes groundwater withdrawal + surface water depletion
- DNRC may issue a permit for groundwater if the augmentation

- Defines augment (for water use
- Defines augmentation plan states that prior appropriator has to be adversely affected for an augmentation plan to be necessary (for water use act)
- Defines "induced infiltration or induced recharge" - water must be drawn from the surface water into the aguifer when the well is used at the requested flow rate and period of diversion (for water use act)
- Amends criteria for issuance of a permit and how adverse effect is determined
 - recognizes that a priority of appropriation (senior water right) does not include the right to prevent changes in the condition of water occurrence if the prior appropriator can reasonably exercise their water right; and
 - must consider whether the cessation of diversion under the permit applied for would result in the increase in the source of supply
- Application for ground water must include a report addressing the effect, if any, on prior appropriators within the area of influence of the propose project
- Report must include determination of whether or not the proposed pumping would



- plan provides for sufficient water to reasonably replace, in each reach affected, the amount of water that will be consumed by the proposed ground water use.
- If a change in appropriation right is required to meet the needs of an augmentation plan the change in appropriation right application must accompany the other information.
- Applicant must provide:
 - application for beneficial use permit
 - hydrologic report
 - · augmentation plan; and
 - change in appropriation right application (if one is necessary) chances are it will be since these are closed basins and there isn't any additional water left for appropriation.

- result in induced infiltration or induced recharge.
- Department gets the report and determines if:
 - (1) pumping will not result in induced infiltration or induced recharge
 - (2) pumping will result in induced infiltration or induced recharge but there is no adverse effect to prior appropriators
 - (3) pumping will result in induced infiltration or induced recharge and there is adverse effect to prior appropriators.
- If the determination is (1) or (2) above then the department processes the application
- If the determination is (3) above then the applicant submits an augmentation plan
- Augmentation plan must identify:
 - the source of water from which the applicant proposes to augment from
 - the quantity of water proposed to augment the senior water right
 - the point of measurement or point of delivery where augmentation of the affected senior water right will occur.
- Once an augmentation plan is received that contains all of the required information the department processes the application

This cross walk table was prepared in an effort to provide a quick reference on the similarities and differences of HB 138 and HB 373 and is for informational purposes only.